

(d) The SAR may be exercised only when the underlying ISO is eligible to be exercised.

(e) The SAR may be exercised only when there is a positive spread, *i.e.*, when the market price of the stock subject to the option exceeds the exercise price of the option.

If all of the above requirements are met, for purposes of the 422A sequential exercise restriction (see A-2(c)(7)), a tandem ISO-SAR will be considered exercised in full when either the underlying ISO or the SAR is exercised. Additionally, SAR's may be paid in either cash or property, or a combination thereof, so long as the section 83 income inclusion rule applies to any property so transferred.

[T.D. 7799, 46 FR 61840, Dec. 21, 1981, as amended by T.D. 8435, 57 FR 43896, Sept. 23, 1992]

## PART 15—TEMPORARY INCOME TAX REGULATIONS RELATING TO EXPLORATION EXPENDITURES IN THE CASE OF MINING

Sec.

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AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: T.D. 6907, 31 FR 16776, Dec. 31, 1966, unless otherwise noted.

### § 15.0-1 Scope of regulations in this part.

The regulations in this part relate to expenditures of the type described in section 615(a) or in section 617(a)(1) paid or incurred after September 12, 1966. The regulations in this part do not apply to the income tax treatment of mining exploration expenditures paid or incurred before September 13, 1966, and no election made pursuant to the provisions of the regulations in this part shall have any effect on the income tax treatment of exploration expenditures paid or incurred before such date. See § 15.1-4 for rules relating to treatment of exploration expenditures paid or incurred during taxable years beginning before September 13, 1966, and ending after September 12, 1966.

### § 15.1-1 Elections to deduct.

(a) *Manner of making election*—(1) *Election to deduct under section 617(a)*. The election to deduct exploration expenditures as expenses under section 617(a) may be made by deducting such expenditures in the taxpayer's income tax return for the first taxable year ending after September 12, 1966, for which the taxpayer desires to deduct exploration expenditures which are paid or incurred by him during such taxable year and after September 12, 1966. This election may be exercised by deducting such expenditures either in the taxpayer's return for such taxable year or in an amended return filed before the expiration of the period for filing a claim for credit or refund of income tax for such taxable year. Where the election is made in an amended return for a taxable year prior to the most recent year for which the taxpayer has filed a return, the taxpayer shall file amended income tax returns, reflecting any increase or decrease in tax attributable to the election, for all taxable years affected by the election. See section 617(a)(2)(C) for provisions relating to the tolling of the statute of limitations for the assessment of any deficiency for any taxable year, to the extent the deficiency is attributable to an election under section 617(a). In applying the election to the years affected there shall be taken into account the effect that any adjustments resulting from the election shall have on other items affected thereby, such as the deduction for charitable contributions, the foreign tax credit, net operating loss and other deductions or credits the amount of which is limited by the taxpayer's taxable income, and the effect that adjustments of any such items have on other taxable years. Amended returns filed for taxable years subsequent to the taxable year for which the election under section 617(a) is made by amended return shall apply the recapture provisions of subsections (b)(1)(B), (c), and (d) of section 617.

(2) *Election to deduct under section 615*—(i) *General rule*. The election to deduct exploration expenditures under section 615 shall be made in a statement filed with the district director, or director of the regional service center,

with whom the taxpayer's income tax return is required to be filed. If the election is made within the time period prescribed for filing an income tax return (including extensions thereof) for the first taxable year ending after September 12, 1966, during which the taxpayer pays or incurs expenditures which are within the scope of section 615 and which are paid or incurred by him after September 12, 1966, this statement shall be attached to the taxpayer's income tax return for such taxable year. If the election is made after the time prescribed for filing such return but before the expiration of the period (described in paragraph (d)(1) of this section) for making the election under section 615(e), the statement must be signed by the taxpayer or his authorized representative. The statement shall be filed even though the taxpayer charges to capital account all such expenditures paid or incurred by him during such taxable year after such date. The statement shall clearly indicate that the taxpayer elects to have section 615 apply to all amounts deducted by him with respect to mining exploration expenditures paid or incurred after September 12, 1966. If the taxpayer desires, he may file this statement by attaching it to his return for a taxable year prior to the first taxable year ending after September 12, 1966, in which he pays or incurs mining exploration expenditures. Except as provided, in subdivision (ii) of this subparagraph, if the taxpayer does not file such a statement within the period prescribed by section 615(e) and paragraph (d)(1) of this section, any amounts deducted by him with respect to exploration expenditures paid or incurred by him after September 12, 1966, will be deemed to have been deducted pursuant to an election under section 617(a).

(ii) *Exception.* The last sentence of subdivision (i) of this subparagraph shall not apply if all mining exploration expenditures which are paid or incurred by the taxpayer after September 12, 1966, and which are deducted by him in his income tax return for the first taxable year ending after September 12, 1966, during which he pays or incurs such expenditures are outside the scope of section 617(a). For example, assume that, in his return for his

first taxable year ending after September 12, 1966, a taxpayer deducts mining exploration expenditures paid or incurred after September 12, 1966, and does not attach to his return the statement described in subdivision (i) of this subparagraph. However, all of the exploration expenditures paid or incurred by the taxpayer after September 12, 1966, and before the end of the taxable year were paid or incurred with respect to minerals located neither in the United States nor on the Outer Continental Shelf. The taxpayer will be deemed to have made an election under section 615(e) by deducting all or part of those expenditures as expenses in his income tax return.

(b) *Information to be furnished.* A taxpayer who makes or has made an election under either section 615(e) or section 617(a) to deduct expenditures paid or incurred after September 12, 1966, shall indicate clearly on his income tax return for each taxable year for which he deducts any such expenditures the amount of the deduction claimed under section 615 (a) or (b) or section 617(a) with respect to each property or area of interest. Such property or area of interest shall be identified by a description sufficiently adequate to permit application of the recapture rules of section 617 (b), (c), and (d) and the rules of section 615(g) (relating to effect of transfer of mineral property).

(c) *Effect of election.* A taxpayer who has made an election under section 615(e) may never make an election under section 617(a) unless, within the period set forth in section 615(e) and paragraph (b)(1) of § 15.1-2, he revokes his election under section 615(e). A taxpayer who has made an election under section 617(a) may never make an election under section 615(e) unless, within the period set forth in section 615(e) and paragraph (b)(1) of § 15.1-2, he revokes his election under section 617(a). A taxpayer who has made, and has not revoked, an election under section 617(a) may not, in his return for the taxable year for which the election is made or for any subsequent taxable year, charge to capital account any expenditures which are within the scope of section 617(a), and he must deduct all such expenditures as expenses. Except as provided in paragraph (a)(2) of

§1.615-2 of this chapter (Income Tax Regulations), a taxpayer who makes an election under 615(e) may not change his treatment of exploration expenditures deducted, deferred, or capitalized pursuant to such election unless he revokes the election made under section 615(e).

(d) *Time for making election*—(1) *Election under section 615(e)*. A taxpayer may not make an election under section 615(e) after the expiration of the 3-year period beginning with the date prescribed by section 6072 or other provision of law for filing the taxpayer's income tax return for the first taxable year ending after September 12, 1966, in which the taxpayer pays or incurs expenditures to which section 615(a) would apply if an election were made under section 615(e). This 3-year period shall be determined without regard to any extension of time for filing the taxpayer's income tax return. An election under section 615(e) may not be made after the expiration of the 3-year period even though the taxpayer charged to capital account, or erroneously deducted as development expenditures under section 616, all mine exploration expenditures paid or incurred by him after September 12, 1966, and before the end of his first taxable year ending after September 12, 1966, in which he paid or incurred such expenditures.

(2) *Election under section 617(a)*. The election under section 617(a) may be made at any time before the expiration of the period prescribed for filing a claim for credit or refund of the tax imposed by chapter 1 for the first taxable year for which the taxpayer desires to deduct exploration expenditures under section 617.

(3) *Timely mailing treated as timely filing*. Section 7502 (relating to timely mailing treated as timely filing) shall apply in determining the date when an election under either section 615(e) or section 617(a) is made.

**§ 15.1-2 Revocation of election to deduct.**

(a) *Manner of revoking election*. A taxpayer may revoke an election made by him under section 615(e) or section 617(a) by filing with the internal revenue officer with whom the taxpayer's

income tax return is required to be filed, within the periods set forth in paragraph (b) of this section, a statement, signed by the taxpayer or his authorized representative, which sets forth that the taxpayer is revoking the election previously made by him with respect to the deduction of mining exploration expenditures paid or incurred after September 12, 1966, and states with whom the document making the election was filed. A taxpayer revoking such an election shall file amended income tax returns, reflecting any increase or decrease in tax attributable to the revocation of election, for all taxable years affected by the revocation of election. See section 617(a)(2)(C) for provisions relating to the tolling of the statute of limitations for the assessment of any deficiency for any taxable year, to the extent the deficiency is attributable to an election or revocation of election under section 617(a). In applying the revocation of an election to the years affected there shall be taken into account the effect that any adjustments resulting from the revocation of election shall have on other items affected thereby, such as the deduction for charitable contributions, the foreign tax credit, net operating loss, and other deductions or credits the amount of which is limited by the taxpayer's taxable income, and the effect that adjustments of any such items have on other taxable years.

(b) *Time for revoking election*—(1) *Election under section 615(e)*. An election under section 615(e) may be revoked at any time before the expiration of the 3-year period described in paragraph (d)(1) of §15.1-1. Such an election may not be revoked after the expiration of the 3-year period.

(2) *Election under section 617(a)*. An election under section 617(a) may be revoked before the expiration of the last day of the third month following the month in which the final regulations issued under the authority of section 617 are published in the FEDERAL REGISTER. After the expiration of this period, a taxpayer who has made an election under section 617(a) may not revoke that election unless he obtains the consent of the Secretary or his delegate in the manner to be set forth in the final regulations under section 617.